

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Suga et al.
Serial No.: 10/564,051
Confirmation No.: 5728
Filed: January 9, 2006
For: PACEMAKER SYSTEM FOR TREATING SLEEP APNEA
SYNDROME
Examiner: A. M. Alter
Art Unit: 3762

MAIL STOP Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate of Electronic Filing Under 37 CFR 1.8
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: January 16, 2009

Signature:

Elben Mackay

STATEMENT FILED PURSUANT TO THE DUTY OF
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed more than three months after the filing date of this application and after the mailing date of the first Office action, but before the mailing date of any final action under 37 C.F.R. §1.113, a Notice of Allowance under 37 C.F.R. §1.311, or an action that otherwise closes prosecution in this application.

The Applicant hereby states, as specified in 37 C.F.R. §1.97(e), that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign Patent Office in a counterpart for this application not more than three months prior to the filing of this Statement. No fee is required.

PART II: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified PTO/SB/08). The order of presentation of the references should not be construed as an indication of the importance of the references.

PART III: Explanation of Non-English Language References and Remarks Concerning Other Information Cited

The following is a concise explanation of the relevance of each non-English language reference listed on the attached form PTO-1449 (modified PTO/SB/08):

An Office Action was dispatched from the Japanese Patent Office on October 21, 2008 in Japanese Application Serial No. JP2005-503848 (the "JP848 application"), a foreign counterpart to the present U.S. application. For completeness, Applicants submit herewith a copy of the Japanese Office Action listed on the attached PTO Form-1449. All references cited in this recent Office Action in the JP848 application are listed on the attached PTO Form-1449.

PART IV: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 (modified PTO/SB/08) be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

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By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

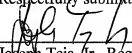
By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicant, the Examiner is urged to form his or her own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,

By:



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Docket No.: K0522.70000US00
Date: January 16, 2009 xNDDx